

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the
California-American Water Company (U210W)
for an Order Authorizing it to Increase its Rates
for Water Service in its Sacramento District to
Increase Revenues by \$8,198,700 in the Year 2003;
and \$1,955,000 in the Year 2004.

Application 02-09-030
(Filed September 19, 2002)

And Related Matters.

Application 02-09-031
(Filed September 19, 2002)
Application 02-09-032
(Filed September 19, 2002)
Application 02-09-033
(Filed September 19, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON PENDING MOTIONS, AND SUBMITTING PROCEEDING**

This ruling addresses two pending motions and submits the proceeding.

On Pending Motions, and Submitting Proceeding

By Decision (D.) 02-12-068 in Application (A.) 02-01-036, the Commission authorized Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft (RWE), and Thames Water Aqua U.S. Holdings, Inc. to acquire control of American Water Works, California-American Water Company's (CalAm) parent. That acquisition closed on January 10, 2003. In approving the transaction, the Commission approved a settlement containing the following Condition #20:

“20. For a period sufficient to cover a single full rate cycle for each of Cal-Am's four sets of filing districts, not to exceed four years from the date of closing, RWE, Thames, American and Cal-Am will implement a mechanism to track the savings and costs resulting from the proposed merger and a methodology to allocate all net savings and will submit to the Commission in writing a detailed description of that methodology in connection with future Cal-Am general rate case filings.

“Commission Comment: We understand the use of the term "will" as if the parties had used the term "shall." The methodology to be developed shall allocate all net benefits to the ratepayers.”

By Finding of Fact #19, the Commission interpreted this condition:

“19. Through condition 20, the applicants are committed to pass through 100% of the future benefits of this transaction to CalAm’s ratepayers.”

Montara Sanitary District (MSD) and County of Santa Cruz (Santa Cruz) assert that CalAm has failed to pass on in this proceeding those immediate and quantifiable benefits promised on the record in A.02-01-036 and required to be passed on by the Commission in D.02-12-068. On April 28, 2003 they filed a motion to suspend this general rate case (GRC) proceeding until CalAm has identified and quantified all of the ratepayer savings achieved or achievable during test years 2003 and 2004, and to allow the opposing parties to conduct discovery on the topic. Office of Ratepayer Advocates (ORA) supported MSD’s and Santa Cruz’s motion.

CalAm’s response to the motion acknowledged that there are immediate and quantifiable RWE-driven benefits that are not included in this proceeding, identified the sources of at least some of those benefits, and explained why the motion should nonetheless be denied. CalAm’s GRC applications were prepared during the first half of 2002 and the Notices of Intent filed on June 28, 2002,

whereas D.02-12-068 was issued in December 2002 and the RWE acquisition closed in January 2003. Further, by settlement Condition #20 quoted above, and D.02-12-068, Ordering Paragraphs 12 and 13, CalAm will be tracking in a memorandum account the costs and savings resulting from the acquisition, must develop a methodology to allocate all net benefits to the ratepayers, and will carry the burden of proving that it has done so. CalAm anticipates it will make that showing with its Citizens districts' 2005 and 2006 test year GRCs.

D.02-12-068 and the RWE acquisition occurred too late to be properly reflected in this proceeding. Further, the Commission made specific provisions in that decision to secure for CalAm's ratepayers the benefits from the transaction, including those immediate benefits which most concern MSD, Santa Cruz and ORA here, and ordered a district by district GRC filing schedule and deferral of certain attrition step increases to ensure ratepayers would receive them. MSD's and Santa Cruz's motion to suspend this proceeding will be denied.

Motion to Accept Late-Filed Brief

Concurrent opening briefs were due in this proceeding on May 23, 2003. Applicant CalAm's brief was served on the parties by e-mail at 5:03 p.m. that day, and shortly thereafter by U.S. mail, but could not be filed with the Commission's Docket Office until the following working day, May 27, 2003. A declaration attached to CalAm's Motion to Accept Late-Filed Opening Brief explains the computer problems that caused the formal filing to be delayed.

No party was placed at a disadvantage by the late filing, and no party objected to granting CalAm's motion. CalAm's motion will be granted.

Submission of Proceeding

This proceeding stands submitted effective today.

IT IS RULED that:

1. Montara Sanitary District's and County of Santa Cruz's Motion to Suspend Consolidated General Rate Case Proceeding is denied.
2. California-American Water Company's Motion to Accept Late-Filed Opening Brief is granted.
3. This proceeding is submitted effective today.

Dated November 21, 2003, at San Francisco, California.

/s/ JAMES C. McVICAR

James C. McVicar
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling On Pending Motions, And Submitting Proceeding on all parties of record in this proceeding or their attorneys of record.

Dated November 21, 2003, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

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A.02-09-030 et al. JCM/avs

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.